



Agenda Date: 4/21/99

STATE OF NEW JERSEY

Board of Public Utilities

*Two Gateway Center
Newark, NJ 07102*

ENERGY

IN THE MATTER OF PUBLIC SERVICE)	<u>SUMMARY ORDER</u>
ELECTRIC AND GAS COMPANY'S RATE)	
UNBUNDLING, STRANDED COSTS AND)	BPU DOCKET NOS. E097070461,
RESTRUCTURING FILINGS)	EO97070462, AND EO97070463

(SERVICE LIST ATTACHED)

BY THE BOARD:

This Summary Order memorializes in summary fashion the action taken by the Board of Public Utilities ("Board") in these matters at its April 21, 1999 public agenda meeting. The Board will issue a more detailed Decision and Order in these matters in the near future, which will provide a full discussion of the issues as well as the reasoning for the Board's determinations.

These matters come before the Board on a record developed in hearings before Administrative Law Judge ("ALJ") Louis G. McAfoos, who issued an Initial Decision ("ID") on August 14, 1998, and in hearings conducted before Commissioner Carmen J. Armenti from April 27, 1998 through May 28, 1998. Subsequent to the ALJ's ID and the hearings before Commissioner Armenti, the Legislature passed and Governor Whitman signed into law on February 9, 1999 the Electric Discount and Energy Competition Act ("the Act"). Negotiations were conducted during the latter part of February and the first half of March 1999. A comprehensive settlement was not reached, but on March 17, 1999 a Stipulation was filed by Public Service Electric and Gas Company ("PSE&G") on behalf of a number of parties to the proceedings. On March 29, 1999 an alternative joint proposal was submitted by the Division of the Ratepayer Advocate (Advocate) on behalf a number of other parties to these proceedings. Comments directed at the two competing proposals were solicited by the Board and submitted by numerous parties on April 5 and April 7, 1999, respectively.

Based on its review of the extensive record in these proceedings, as well as the comments submitted, the Board is not fully satisfied that either proposal in its entirety represents an appropriate resolution of these proceedings. However, the Board finds the March 17, 1999 Stipulation sponsored by PSE&G and others to be overall more financially prudent and consistent with the Act's requirements, consistent with the record and, with the modifications and clarifications set forth hereinbelow, provides the framework for a reasonable resolution of these matters based upon the record before us. Conversely, we find the Stipulation sponsored by the Advocate and others to be, in many significant areas, not supported by the record, reliant upon miscalculations and inappropriate assumptions or conclusions, and not reflective of a balanced consideration of all the issues in these matters. However, the proponents of the Advocate-sponsored stipulation and other parties have raised a number of legitimate concerns regarding the PSE&G-sponsored Stipulation which merit serious consideration and which, where appropriate, have been addressed by the modifications and clarifications set forth below.

Accordingly, except as specifically noted below, and as will be further explained in a detailed order which shall be issued we hereby incorporate by reference as if completely set forth herein, as a fair resolution of the issues in these proceedings the elements of the Stipulation filed by PSE&G and others, and to the extent the Initial Decision is inconsistent herewith, as it is modified to conform herewith.

The modifications and clarifications to the Stipulation are summarized as follows:

Paragraph 1.b): We find that all rate reductions after the August 1, 1999 statutorily mandated rate reduction should not be subject unconditionally to implementation of the transition bond charge. The 7% estimated aggregate rate reduction in January 2000, as well as the 8.25% aggregate rate reduction (as adjusted below) in August 2001, does include achievement of an estimated 2% overall savings from securitization in addition to the 1% securitization savings subsumed in the initial 5% rate reduction in August 1999. Accordingly, to the extent that securitization is not implemented, those middle rate reduction steps would appropriately be reduced by 2%. The final rate reduction in August 2002 of 13.9% (10% from the level of April 30, 1997 rates), is required by the Act and shall not be conditioned upon implementation of securitization.

Paragraph 1.c): Subject to the foregoing, we modify the August 1, 2001 rate reduction from 8.25% to 9.00%.

Paragraphs 1.e) and 3: We accept the manner in which the Stipulation applies the rate reductions to customer bills during the transition period, but are concerned that the removal of the rate reduction credit in year 5 will lead to an undue bill impact, since removal of the entire rate reduction credit would appear to result in a total customer bill which substantially exceeds the sum of the unbundled rate components, including the distribution rate, BGS rate (including transmission), STC, NTC, and SBC which will remain, prior to adjustment, in year 5. Moreover, we are concerned that the particular unbundled rate components, particularly with respect to distribution charges, as provided in Attachment 2 will, after the expiration of the rate reduction credit, result in a shift in cost responsibility between and among customer classes. We therefore **DIRECT** the Company to file, by no later than March 1, 2000, a revised distribution rate design, for Board review and approval, which does not result in a shift of cost responsibility between or among customer classes. Moreover, we **DIRECT** the Company to file, by no later than August 1, 2002, the proposed unbundled rate components which it proposes be implemented at the expiration of the transition period on August 1, 2003.

Paragraph 10: The Board concludes that the Company should be provided with the opportunity to recover up to \$2.940 billion net of tax stranded costs, through securitization of \$2.400 billion and an opportunity to recover up to \$540 million of its unsecuritized generation related net of tax stranded costs on a present value basis, subject to a true-up on the collection of the unsecuritized generation related stranded costs as provided in Paragraph 17 of the Stipulation. As well, the overrecovery in the LEAC as of July 31, 1999 totaling approximately \$60 million (as estimated in the Stipulation net of taxes) should not be used as a mitigation tool for the Company; rather, it should be returned to ratepayers and utilized to offset the stranded costs otherwise recoverable from ratepayers. This shall be accomplished by applying the overrecovery as a credit to the starting deferred balance for the NTC.

Paragraph 11: The Board clarifies the language concerning the use of the net proceeds of securitization, to indicate that the refinancing or retirement of debt and/or equity shall be done in a manner that will not substantially alter the Company's overall capital structure.

Paragraph 11.a): The Board will issue a financing order, consistent with the provisions of the Act, to authorize the Company to issue up to \$2.525 billion of transition bonds representing \$2.400 billion of net of tax generation-related stranded costs and an estimated \$125 million of transaction costs. The taxes related to securitization, which reflect the grossed up revenue requirement number associated with the \$2.400 billion in net of tax stranded costs being securitized, are legitimate recoverable stranded costs, however they should not be collected through the transition bond charge; rather, such taxes shall be collected via a separate MTC. The duration of this separate MTC shall be 15 years, identical to the duration of the transition bond charge. An MTC of a shorter duration will prevent the achievement of the mandated rate reductions.

Paragraph 13: We believe that, on the condition that the Genco transfer is implemented, and the unsecuritized generation stranded costs level, once established, is not subject to true-up, other than as provided in Paragraph 17 (as modified), PSE&G should only be afforded the opportunity to recover \$540 million on a net present value basis (not including the tax-related MTC addressed in Paragraph 11(a)) of unsecuritized generation-related stranded costs, net of taxes, over the Transition Period.

Paragraph 14: Consistent with our modifications to paragraph 13, references to \$600 million shall be modified to \$540 million. In addition, we modify the stipulation and clarify that any payments to PSE&G resulting from BGS being bid out for year 4 of the transition period pursuant to paragraph 17 shall be credited to the deferred SBC balance for purposes of establishing the SBC rate in Year 5, and shall in no event be retained by the Company or remitted to Genco or otherwise utilized to recover unsecuritized generation-related stranded costs.

Paragraph 21.c: With respect to the fixed transmission rights, we clarify that the transfer of authority to Genco to act as PSE&G's agent for the purpose of scheduling, electing and/or using such rights, is solely for the purpose of Genco meeting its obligations under the BGS contract, including the removal of price volatility.

Paragraph 23: We believe that there should be an equal sharing of the gains from any sale of the transferred generating facilities which occurs within 5 years of August 1, 1999, rather than within four years as proposed in the Stipulation.

Paragraph 28: We clarify that it is our belief that, under the terms and conditions of our Order, and the resultant facts and circumstances, section 7 of the Act concerning the sharing of net revenues is not applicable.

Paragraph 29: We clarify that, for purposes of implementing the Stipulation, the Board will retain jurisdiction over and will monitor whether Genco is making good faith efforts to sell excess capacity into the PJM system at market rates.

Paragraphs 30 and 30A: The Board accepts neither proposed standards of conduct in the Stipulation, but instead indicates that it has released draft affiliate relations standards for comment, and will be adopting interim affiliate relations standards pursuant to the Act prior to the completion of the transfer, and that such standards will be applied to the relationship between Genco and PSE&G, except as such relationship is defined in the BGS contract. The Company shall file the proposed BGS contract for the Board's review for compliance with the provisions of its Decision and Order in this matter.

Paragraph 34: The Third Party Supplier Agreements are subject to an ongoing generic working group under the Board's restructuring dockets. Accordingly, we do not approve or give any particular weight to the tariff modifications in Attachment 6 to the Stipulation; we will determine the contents and substance of the Third Party Supplier Agreement and accompanying tariffs within the context of that generic proceeding. We encourage the parties to work cooperatively to resolve those issues in a collaborative manner.

In summary, subject to the conditions embodied herein, the rate discounts provided by PSE&G relative to current rates shall be as follows, assuming 3% savings from securitization:

August 1, 1999	5%
January 1, 2000 (est'd)	7%
August 1, 2001 (est'd)	9%
August 1, 2002	13.9%

The average shopping credits shall be as follows:

	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
RS	5.71	5.86	5.86	5.86	5.86
GLP	5.30	5.35	5.39	5.44	5.44
LPL-S	4.84	4.88	4.93	4.97	4.97
LPL-P	4.54	4.58	4.62	4.66	4.66
HTS-SubT	4.30	4.35	4.40	4.44	4.44
HTS-HV	4.12	4.16	4.21	4.25	4.25
Overall	4.95	5.03	5.06	5.10	5.10

The opportunity for recovery of up to \$2.940 billion is afforded via \$2.400 billion of securitization and the opportunity for up to \$540 million to be recovered via the MTC, the retained retail adder and the depreciation reserve amortization and subsequently remitted to Genco, per the terms of the stipulation as modified.

The total opportunity for recovery of net of tax generation stranded costs is set at \$2.940 billion, with the implementation of the Genco transfer, resulting from an increase in the net transfer value for the generating assets of \$135 million from \$1.768 billion to \$1.903 billion.

The amount of generation stranded costs which is authorized for securitization is \$2.400 billion. The Company is also authorized to securitize up to the estimated \$125 million of reasonably incurred bond transaction costs.

The amount of unsecuritized net of tax stranded cost which the Company is permitted an opportunity to recover is \$540 million, with the implementation of the Genco transfer per the terms of the Stipulation as modified herein, and subject to the true-up provisions provided in paragraph 17 of the Stipulation as modified herein.

Within five (5) days of the date of this Order, the Company is **HEREBY DIRECTED** to submit to the Board schedules that show all accounting entries that will be required as a result of this Order, for both PSE&G and Genco, including the entries that will be required on the dates the securitization and Genco proceeds are projected to be received by the Company. In all cases, the information is to include all tax effects, both current and deferred, and the disposition of the accumulated balance of investment tax credits associated with the assets transferred and related annual amortization, if any, and all of the information, for both the Company and Genco, is to

be quantified reflecting the findings of this Order, as set forth above. The Company shall consult with Staff to assure the adequacy of the required submissions.

DATED: 4/21/99

**BOARD OF PUBLIC UTILITIES
BY:**

_____**SIGNED**_____
**HERBERT H. TATE
PRESIDENT**

_____**SIGNED**_____
**CARMEN J. ARMENTI
COMMISSIONER**

_____**SIGNED**_____
**FREDERICK F. BUTLER
COMMISSIONER**

ATTEST: _____SIGNED**_____**
**MARK W. MUSSER
SECRETARY**